

DOCKET NO: 290346US40PCT

**IN THE UNITED STATES PATENT & TRADEMARK OFFICE**

IN RE APPLICATION OF :  
NAOHISA HIGASHIYAMA : EXAMINER: CIRIC, LJILJANA V  
SERIAL NO: 10/579,470 :  
FILED: MAY 15, 2006 : GROUP ART UNIT: 3744  
FOR: EVAPORATOR AND PROCESS :  
FOR FABRICATING SAME :

**RESPONSE TO NOTICE OF NON-RESPONSIVE AMENDMENT**

COMMISSIONER FOR PATENTS  
ALEXANDRIA, VIRGINIA 22313

SIR:

In response to the Election of Species Requirement stated in the Official Action dated September 3, 2009, and the Notice of Office Communication dated December 30, 2009, it is respectfully submitted that Applicant has provisionally elected the first species (embodiment of Figs. 1-13), and identified Claims 1-7, 19, 21 and 22 as readable on the elected species in the response filed October 1, 2009.

Applicant respectfully traverses the outstanding Election of Species Requirement for the following reason.

MPEP §803 states the following:

If the search and examination of all the claims in an application can be made without serious burden, the examiner must examine them on the merits, even though they include claims to independent or distinct inventions.

It appears that the claims according to the present invention are part of an overlapping search area and that a search for Claims 1-7, 19, 21 and 22 would necessarily include a search

directed to Claims 8-18 and 20 as well. It is therefore believed that there is no undue burden on the Examiner to search all the claims under MPEP §803, and Applicant respectfully traverses the Election of Species Requirement on the grounds that a search and examination of all the claims in the present application would not place a *serious* burden on the Examiner.

Therefore, it is respectfully requested that the requirement to elect a single species be withdrawn, and that a full examination on the merits of Claims 1-22 be conducted.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, L.L.P.

A handwritten signature in black ink, appearing to read 'Akihiro Yamazaki', is written over a horizontal line.

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